



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.08.2017

Pronounced on : 13.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7043 of 2014

and

M.P(MD)Nos.1 & 2 of 2014

Popular Educational Trust,
Rep.by its Managing Trustee,
Prof. Syed Meeran Arif,
Regd.Office at No.370-C5,
Cape Road, Kottar,
Nagercoil - 629 002.

... Petitioner

vs.

1. The Government of Tamil Nadu,
Represented by the Secretary,
Department of Housing and
Urban Development,
Fort.St.George, Chennai - 600 009.

2. The Director of Town and
Country Planning,
No.807, Anna Salai, Chennai - 600 002.

3. The Deputy Director of Town
and Country Planning,
Tirunelveli Region,
No.108, Thiruvananthapuram Road,
Tirunelveli - 2.

4. The President,
Achampadu Village Panchayat,
Radhapuram Taluk,
Tirunelveli District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, Writ of Certiorari, to call for the records of the impugned notice in letter No.2503/2012/TVL R3 dated 03.09.2012 issued by the third respondent and quash the same.

For Petitioner

: Mr.M.Mubarak for
Ms.Ahmed Associates

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents

: Mr.M.Govindan,
Special Government Pleader

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

The petitioner is an Educational Trust. The petitioner after obtaining clearance from the local body has put up constructions in the lands situated in Achampadu village in Radhapuram Taluk, Tirunelveli District. However, the clearance of the Local Planning Authority has not been obtained. Therefore, the Local Planning Authority issued the impugned notice dated 03.09.2012. BY the impugned notice, the petitioner was informed to remove the unauthorised constructions. It was further stated therein that in the event of failure on the part of the writ petitioner to do so, further action will be taken.

2.We have heard the learned counsel on either side and perused the materials available on record.

3.There is a statutory remedy available to the petitioner under Section 80(A) of the Tamil Nadu Town and Country Planning Act, 1971. The petitioner without resorting to the specific remedy available under the Act, has rushed to this Court.

4.The Hon'ble Supreme Court in **Dipak Kumar Mukherjee Vs. Kolkatta Municipal Corporation (2013 (5) SCC 336)** observed that illegal and unauthorised construction of buildings and other structures not only violate the Municipal Laws and the concept of planned development of the particular area but also affect various fundamental and constitutional rights of other persons.

5.The building in question is used by the students. It is a educational institution building. Since the students are using the building, it must be structurally sound. There is nothing on record to see that the building was constructed in adherence to the prescribed standards. In any case, the local authority was correct in taking enforcement action. We are therefore of the view that there is no ground made out in this writ petition. We therefore dismiss the writ petition. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Government of Tamil Nadu,
<https://hcservices.ecourts.gov.in/hcservices/>
Department of Housing and Urban Development,
Fort.St.George, Chennai - 600 009.



2. The Director of Town and
Country Planning,
No.807, Anna Salai, Chennai - 600 002.

3. The Deputy Director of Town
and Country Planning,
Tirunelveli Region,
No.108, Thiruvananthapuram Road,
Tirunelveli - 2.

4. The President,
Achampadu Village Panchayat,
Radhapuram Taluk,
Tirunelveli District.

+1cc to Spl.Government Pleader Sr.No.55726

ARUL

VB/SV/MMS/SAR4/25.04.2018/3P/6C

Order made in
W.P (MD) No.7043 of 2014
and
M.P (MD) Nos.1 & 2 of 2014
13.03.2018